

**THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**CHILLY DIL CONSULTING INC., a
Florida corporation,**

Plaintiff,

V.

JETPAY ISO SERVICES, LLC, a Texas limited liability company; JETPAY, LLC, a Texas limited liability company; JETPAY CORPORATION, a Delaware corporation; and TRENT R VOIGT, an individual,

Defendants.

§ § § § § § § § § § § § § § §

CIVIL ACTION NO. 3:14-cv-02749-P

**APPENDIX OF EVIDENCE IN SUPPORT OF PLAINTIFF'S
MOTION TO EXTEND DEADLINE TO SEEK LEAVE TO AMEND COMPLAINT**

Pursuant to Civil Local Rules of Northern District of Texas Local Rule 7-1, Plaintiff, CHILLY DIL CONSULTING INC., (“Plaintiff”) hereby submits this Appendix of Evidence in support of Plaintiff’s Motion to Extend Deadline to Seek Leave to Amend Complaint.

David Steiner & Associates, PLC

BY: /s/ *David Paul Steiner*

David P. Steiner

California Bar No. 64638

dpsartnetlaw@gmail.com

DAVID STEINER & ASSOCIATES, PLC

1801 Century Park East, Suite 1600

Los Angeles, CA 90067

Telephone: (310) 557-8422

Facsimile: (310) 556-0336

Attorneys for Plaintiff

LEHTOLA & CANNATTI PLLC

BY: /s/*Patricia Beaujen Lehtola*

Patricia Beaujean Lehtola
State Bar No. 01997700
plehtola@lc-lawfirm.com
Phillip E. Cannatti
State Bar No. 00793456
pcannatti@lc-lawfirm.com
Patrick C. Joost
State Bar No. 24078759
pjoost@lc-lawfirm.com
LEHTOLA & CANNATTI PLLC
5001 Spring Valley Road,
Suite 400 East
Dallas, Texas 75244
(972) 383-1515 (Telephone)
(866) 383-1507 (Facsimile)
Attorneys for Plaintiff

TABLE OF CONTENTENTS

<i>Exhibit No.</i>	<i>Description</i>	<i>Page No.</i>
	Declaration of Eugene Rome	1-3
Exhibit A	Court's Scheduling Order dated January 6, 2015	4-6
Exhibit B	Plaintiff's Letter dated July 10, 2015	7-9
Exhibit C	Response email from Micah Dortch, dated July 10, 2015	10-11
Exhibit D	Follow-Up email from Jerl B. Leutz, dated July 14, 2015	12-13
Exhibit E	Response email from Lauren Tow, dated July 14, 2015.	14-15

I, Eugene Rome, declare as follows:

1. I am the counsel of record for Plaintiff Chilly Dil Consulting, Inc. ("Chilly Dil"). Unless otherwise stated as based on information and belief, I have personal knowledge of the facts stated herein. If called upon to do so, I could and would testify to the truth thereof.

2. I make this Declaration in support of Chilly Dil's Motion to Extend Deadline to Seek Leave to Amend the Complaint.

3. On January 6, 2015, this Court issued a scheduling order setting Plaintiff's deadline to seek leave to amend the complaint as July 15, 2015. A true and correct copy of the Court's scheduling order is included herewith as Exhibit "A".

4. On July 10, 2015, my office sent a letter to counsel for Defendants requesting that they enter into a stipulation to extend Plaintiff's deadline to seek leave to amend the complaint. A true and correct copy of our letter requesting a stipulation is included herewith as Exhibit "B."

5. Later on July 10, 2015, counsel for Defendants responded by email to our letter but did not acknowledge the stipulation request. A true and correct copy of Defendants' counsel's email response ignoring our request for stipulation is included herewith as Exhibit "C."

6. On July 14, 2015, my office sent a follow-up email to counsel for Defendants requesting again that they enter into a stipulation to extend Plaintiff's deadline to seek leave to amend the complaint. A true and correct copy of our follow-up email requesting a stipulation is included herewith as Exhibit "D."

7. Later on July 14, 2015, counsel for Defendants responded by email to our follow-up request by refusing to enter a stipulation. Defendants accused Plaintiff of obstructing discovery into evidence that is in Defendants' possession. A true and correct copy of Defendants' counsel's email refusing a stipulation is included herewith as Exhibit "E."

8. To date, I have not received any further responses or indications from Defendants that they would accommodate the provision of more time to conduct discovery into the relationship and structure of the various entity defendants and a possibly related entity located in the United Kingdom.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on July 15, 2015, in Los Angeles, California.

/s/Eugene Rome
Eugene Rome

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

CHILLY DIL CONSULTING INC,	§	
	§	
Plaintiff,	§	
	§	CIVIL ACTION NO.
v.	§	3:14-CV-02749-P
	§	
JETPAY ISO SERVICES LLC, et al.,	§	
	§	
Defendants.	§	

SCHEDULING ORDER

TRIAL DATE: April 4, 2016 at 9:00 AM

PRETRIAL CONFERENCE DATE: March 25, 2016 at 9:30 AM

The Court has considered the Parties' Joint Proposal for Contents of Scheduling and Discovery Order, filed December 5, 2015, and sets the following schedule for disposition of this case:

- 1) The **JURY TRIAL** is scheduled on this Court's two-week docket beginning **April 4, 2016 at 9:00 AM**.
- 2) A Pretrial Conference is scheduled for **March 25, 2016 at 9:30 AM**.
- 3) Counsel shall comply with Fed. R. Civ. P. 26(a)(1) by **February 6, 2015**.
- 4) Motions for leave to join other parties shall be filed by **June 15, 2015**.
- 5) Motions for leave to amend pleadings shall be filed by **July 15, 2015**.
- 6) The party with the burden of proof on a claim shall file a designation of expert witnesses and comply with Fed. R. Civ. P. 26(a)(2) by **September 4, 2015**.
- 7) Rebuttal designation of expert witnesses and compliance with Fed. R. Civ. P. 26(a)(2) shall be made by **October 4, 2015**.
- 8) All discovery procedures shall be initiated in time to complete discovery by **December 4, 2015**.
- 9) Counsel shall confer and file a joint report setting forth the status of settlement negotiations by **December 18, 2015**.

- 10) All dispositive motions, including motions for summary judgment on all or some of the claims, Daubert motions, and motions to exclude or objections to expert witnesses, shall be filed by **January 4, 2016**.
- 11) Counsel shall file by **March 11, 2016**, a **Joint Pretrial Order** containing the information required by Local Rule 16.4 plus the following:
 - (a) A list of witnesses who may be called by each party in its case in chief. Each such witness list shall contain a narrative summary of the testimony to be elicited from each witness, shall state whether the witness has been deposed, and whether the witness's testimony at trial is "probable," "possible," "expert" or "record custodian." A copy of this list must be furnished to the Court Reporter prior to trial;
 - (b) Each party's requested jury instructions (annotated) and interrogatories;
 - (c) The status of settlement negotiations as of the date of the Pretrial Order; and
 - (d) Trial briefs may be filed with the Pretrial Order, but are not required unless specifically requested by the Court.

The Joint Pretrial Order will control all subsequent proceedings in the case.

- 12) **Exhibits, Exhibit Lists, Witness Lists, Deposition Designations.** The Parties shall comply with Local Rule 26.2 by **March 16, 2016**. This includes providing your trial exhibits on CD to the Court's chambers.

PLEASE NOTE: All exhibits shall be on CD. Label your CD with the style of the case, the case number, and the Party's name. The beginning of your CD shall include an Exhibit Index page. You may use standard plaintiff/defendant exhibit labels. Please deliver one CD to Judge Solis's chambers.

The Court will not accept original exhibits prior to trial. Original exhibits are retained by counsel and are admitted into the official record during trial. It is counsel's duty to care for the original exhibits before and after trial. At the end of trial, the Court will return the original exhibits to counsel and counsel will sign a Receipt of Exhibits. The Court will file the Receipt of Exhibits with the District Clerk. It is counsel's responsibility to forward any exhibits to the Court of Appeals should the case be appealed. **All questions regarding exhibits are to be directed to the Court Reporter at (214) 753-2349.**

- 13) Objections to witnesses (except expert witnesses), exhibits, and deposition designations shall be filed by **March 21, 2016**.

Counsel must confer about exhibits and make reasonable efforts to agree upon admissibility.

- 14) Motions in limine and requested voir dire questions shall be filed by **March 21, 2016**.
- 15) Objections to the proposed jury instructions shall be filed by **March 21, 2016**.
- 16) **Electronic Courtroom.** Judge Solis's courtroom is equipped with computer monitors at the Judge's bench, counsel tables, the jury box, and the witness chair. These monitors display an exhibit's image at all locations simultaneously. During trial, counsel may highlight portions of an exhibit, which will be displayed on the monitors. Counsel contemplating use of such equipment during trial should schedule training prior to the trial setting for themselves and/or any assistant(s) who will be operating it. Training is available upon request from the Court Reporter at 214/753-2349. Each training session lasts between thirty minutes and one hour.

Any requests for extensions of these deadlines will be viewed with disfavor and will be denied, absent a showing of good cause.

At the pretrial conference, the Court will determine the order in which the cases on this two-week docket will be tried. Counsel and the Parties shall be ready for trial on 48 hours notice at any time during this two-week period.

SO ORDERED, this 6th day of January, 2015.



JORGE A. SOLIS
UNITED STATES DISTRICT JUDGE

EXHIBIT B



2029 Century Park East, Suite 1040 Phone: 310.282.0690
Los Angeles, CA 90067 Fax: 310.282.0691

July 10, 2015

**VIA U.S. MAIL AND EMAIL: MICAH.DORTCH@COOPERSULLY.COM;
LAUREN.TOW@COOPERSULLY.COM**

Timothy M. Dortch; Lauren Tow
COOPER & SCULLY, P.C.
Founders Square
900 Jackson Street, Suite 100
Dallas Texas
T: (214) 712-9501
F: (214) 712-9540

**Re: Chilly Dil Consulting, Inc. v. Jetpay ISO Services, LLC, et al., Northern
District of Texas District Court Case No. 3:14-cv-02749-P**

Dear Mr. Dortch:

This letter addresses two discovery matters. First, we seek a stipulation to extend our deadline to seek leave to amend our complaint, which is currently set for July 15, 2015. Second, enclosed herewith, Plaintiff produces additional **confidential** documents that it recently uncovered, bates stamped CD 0346-0492.

Plaintiff invites Defendants to stipulate to continue the deadline to seek leave to amend for six more months to allow time to complete discovery. Defendants repeatedly requested that Plaintiff amend to include Jetpay's United Kingdom entity as a defendant. However, discovery into the structure and relationships between the various defendant entities remains incomplete, and two pertinent discovery motions, namely, a motion to compel and a motion for a protective order, remain unresolved, effectively delaying discovery into these areas. Further, the court might not decide these motions for weeks to months, even after full briefing. We therefore anticipate that Defendants will agree to this extension.

If you are agree to so stipulate, please respond to confirm by July 14, 2015.

As noted above, attached, you will find additional documents recently uncovered by Plaintiff. Please note that, in addition to the attached documents, our office also possesses numerous additional email communications between the confidential merchant and the Plaintiff that contain sensitive, proprietary, confidential, and trade secret information. Before producing those items, Plaintiff must obtain an "attorneys' eyes only" level of protection by way of a protective order. However, Defendants have not yet agreed to accommodate that level of protection, and a fully briefed motion for such a two-tiered protective order is currently pending decision by this court.

To that end, as we have previously requested, if Defendants would instead stipulate to a two-tiered protective order providing additional "attorneys' eyes only" protection, just like the proposed

Timothy M. Dortch; Lauren Tow
July 10, 2015
Page 2

protective order currently pending before the court, our office will release these documents. Otherwise, until the court reaches a decision on the protective order, we cannot produce these items.

If Defendants are now willing to enter such a protective order, please respond to confirm. Should you have any other questions, please do not hesitate to contact our office.

Very truly yours,

A handwritten signature in black ink, appearing to read 'J. B. Leutz', with a long horizontal flourish extending to the right.

Jerl B. Leutz

Maria Arakelian

From: Maria Arakelian
Sent: Friday, July 10, 2015 12:16 PM
To: MICAH.DORTCH@COOPERSULLY.COM; LAUREN.TOW@COOPERSULLY.COM
Cc: Eugene Rome; Jerl Leutz; dpsartnetlaw@gmail.com; jbbartnetlaw@gmail.com
Subject: Chilly Dil v. JetPay ISO Services - Production of Documents
Attachments: 2015-07-10 Chilly Dil v. JetPay ISO Services Correspondence re Production of Documents.pdf; CD 0346 -0492 CONFIDENTIAL.pdf

Dear Counsel:

Please see the attached documents for the above-referenced matter.

Thank you,

Maria Arakelian
Paralegal
Rome & Associates, A.P.C.
2029 Century Park East, Suite 1040
Los Angeles, CA 90067
Telephone: (310) 282-0690
Facsimile: (310) 282-0691
marakelian@romeandassociates.com
www.romeandassociates.com

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EXHIBIT C

Maria Arakelian

From: Dortch, Micah <Micah.Dortch@cooperscully.com>
Sent: Friday, July 10, 2015 12:26 PM
To: Maria Arakelian
Cc: Tow, Lauren; Eugene Rome; Jerl Leutz; dpsartnetlaw@gmail.com; jbbartnetlaw@gmail.com
Subject: Re: Chilly Dil v. JetPay ISO Services - Production of Documents

This doesn't appear to include all of the letters and Notifications your client should have received regarding visa and MasterCard's recent actions.

Sent from my iPhone

On Jul 10, 2015, at 2:20 PM, Maria Arakelian
<MArakelian@romeandassociates.com<mailto:MArakelian@romeandassociates.com>> wrote:

Dear Counsel:

Please see the attached documents for the above-referenced matter.

Thank you,

Maria Arakelian
Paralegal
Rome & Associates, A.P.C.
2029 Century Park East, Suite 1040
Los Angeles, CA 90067
Telephone: (310) 282-0690
Facsimile: (310) 282-0691
marakelian@romeandassociates.com<mailto:marakelian@romeandassociates.com>
www.romeandassociates.com<http://www.romeandassociates.com>

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<2015-07-10 Chilly Dil v. JetPay ISO Services Correspondence re Production of Documents.pdf> <CD 0346 -0492
CONFIDENTIAL.pdf>

Micah Dortch

Cooper & Scully, P.C.
900 Jackson St. #100
Dallas, TX 75202

Direct: 214.712.9530

Phone: 214.712.9500

Fax: 214.712.9540

Email: Micah.Dortch@cooperscully.com

www.cooperscully.com<<http://www.cooperscully.com>>

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<http://www.cooperscully.com/confidentialitynotice/>

Dallas - 214.712.9500

Houston 713.236.6800

San Francisco 415.956.9700

EXHIBIT D

On Jul 14, 2015, at 5:53 PM, Jerl Leutz <jleutz@romeandassociates.com<mailto:jleutz@romeandassociates.com>> wrote:

Dear Messrs. Dortch and Tow,

We have not had a response from you on this stipulation request. Unless you agree to so stipulate by tomorrow, we'll be applying to the Court for the extension noted. We will also be required to submit evidence of your refusal to discuss the stipulation under LR 7.1.

My Best,

Jerl B. Leutz
Rome & Associates, A.P.C.
jleutz@romeandassociates.com<mailto:jleutz@romeandassociates.com>

Lauren Tow

Cooper & Scully, P.C.
900 Jackson Street, Suite 100
Dallas, TX 75202
Direct: 214.712.9574
Phone: 214.712.9500
Fax: 214.712.9540
Email: Lauren.Tow@cooperscully.com
www.cooperscully.com<http://www.cooperscully.com>

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<http://www.cooperscully.com/confidentialitynotice/>

Dallas - 214.712.9500 Houston 713.236.6800 San Francisco 415.956.9700

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Sent: Friday, July 10, 2015 12:16 PM
To: MICAH.DORTCH@COOPERSCULLY.COM<mailto:MICAH.DORTCH@COOPERSCULLY.COM>;
LAUREN.TOW@COOPERSCULLY.COM<mailto:LAUREN.TOW@COOPERSCULLY.COM>
Cc: Eugene Rome; Jerl Leutz; dpsartnetlaw@gmail.com<mailto:dpsartnetlaw@gmail.com>;
jbbartnetlaw@gmail.com<mailto:jbbartnetlaw@gmail.com>
Subject: Chilly Dil v. JetPay ISO Services - Production of Documents

Dear Counsel:

Please see the attached documents for the above-referenced matter.

Thank you,

Maria Arakelian
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2029 Century Park East, Suite 1040
Los Angeles, CA 90067
Telephone: (310) 282-0690
Facsimile: (310) 282-0691
marakelian@romeandassociates.com<<mailto:marakelian@romeandassociates.com>>
www.romeandassociates.com<<http://www.romeandassociates.com>>

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EXHIBIT E

Maria Arakelian

From: Tow, Lauren <Lauren.Tow@cooperscully.com>
Sent: Tuesday, July 14, 2015 5:41 PM
To: Jerl Leutz
Cc: Dortch, Micah; Eugene Rome; dpsartnetlaw@gmail.com; jbbartnetlaw@gmail.com
Subject: Re: Chilly Dil v. JetPay ISO Services - Production of Documents

Jerl,

We do not agree to the stipulation. The delay in discovery is solely you holding back documents, not us. We have produced a substantial number of documents and made it more than clear you are suing the wrong party. There is no hiding the ball here.

Lauren Tow

Sent from my iPhone

On Jul 14, 2015, at 5:53 PM, Jerl Leutz <jleutz@romeandassociates.com<mailto:jleutz@romeandassociates.com>> wrote:

Dear Messrs. Dortch and Tow,

We have not had a response from you on this stipulation request. Unless you agree to so stipulate by tomorrow, we'll be applying to the Court for the extension noted. We will also be required to submit evidence of your refusal to discuss the stipulation under LR 7.1.

My Best,

Jerl B. Leutz
Rome & Associates, A.P.C.
jleutz@romeandassociates.com<mailto:jleutz@romeandassociates.com>

Lauren Tow

Cooper & Scully, P.C.
900 Jackson Street, Suite 100
Dallas, TX 75202
Direct: 214.712.9574
Phone: 214.712.9500
Fax: 214.712.9540
Email: Lauren.Tow@cooperscully.com
www.cooperscully.com<http://www.cooperscully.com>

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Dallas - 214.712.9500 Houston 713.236.6800 San Francisco 415.956.9700

From: Maria Arakelian
Sent: Friday, July 10, 2015 12:16 PM
To: MICAH.DORTCH@COOPERSCULLY.COM<mailto:MICAH.DORTCH@COOPERSCULLY.COM>;
LAUREN.TOW@COOPERSCULLY.COM<mailto:LAUREN.TOW@COOPERSCULLY.COM>
Cc: Eugene Rome; Jerl Leutz; dpsartnetlaw@gmail.com<mailto:dpsartnetlaw@gmail.com>;
jbbartnetlaw@gmail.com<mailto:jbbartnetlaw@gmail.com>
Subject: Chilly Dil v. JetPay ISO Services - Production of Documents

Dear Counsel:

Please see the attached documents for the above-referenced matter.

Thank you,

Maria Arakelian
Paralegal
Rome & Associates, A.P.C.
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Los Angeles, CA 90067
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CERTIFICATE OF SERVICE

This is to certify that on July 15, 2015, the foregoing was served upon counsel of record in accordance with the Federal Rules of Civil Procedure as set forth below by U.S. Mail or electronic filing.

COOPER& SCULLY, P.C.
Timothy Micah Dortch
R. Brent Cooper
Founders Square
900 Jackson Street, Suite 100
Dallas, Texas 75202
Tel.: 214/712-9501
Fax: 214/712-9540
COUNSEL FOR DEFENDANTS

BY: /s/Eugene Rome
Eugene Rome